

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

JOHNNY E. MITCHELL

PETITIONER

vs.

CIVIL ACTION No.: 3:15-CV-872-HTW-LRA

WARDEN B. MOSLEY

RESPONDENT

ORDER ADOPTING REPORT AND RECOMMENDATIONS

BEFORE THIS COURT is the Report and Recommendation of the United States Magistrate Judge Linda Anderson [**Docket no. 16**]. In her Report and Recommendation, filed on November 20, 2017, Magistrate Judge Anderson recommended that the petitioner's Petition for Writ of Habeas Corpus [**Docket no. 1**] be **DISMISSED AS MOOT** and then directed the *pro se* petitioner to file any objections within fourteen (14) days. The petitioner has failed to do so.

Magistrate Judge Anderson's Report and Recommendation found that the petitioner sought an early release from federal custody. The petitioner was released from custody on September 3, 2017, and has not provided this court with a new address since the filing of the instant petition. Accordingly, Magistrate Judge Anderson recommended that this court find that the petition in this matter is **MOOT** and that the petitioner has abandoned his lawsuit.

Based upon the findings and recommendation contained in the Report and Recommendation [**Docket no. 16**], this court finds it well-taken. Therefore, the Report and Recommendation of the Magistrate Judge is hereby **ADOPTED** as the order of this court.

Further, this order hereby **DISMISSES** this lawsuit **WITHOUT PREJUDICE**. The parties are to bear their own costs.

A final order adverse to the petitioner having been filed in the captioned habeas corpus case, in which the detention complained of arises out of process issued by a state court or a

proceeding pursuant to 28 U.S.C. § 2241, the court, considering the record in the case and the requirements of 28 U.S.C. § 2253, Rule 22(b) of the Federal Rules of Appellate Procedure, and Rule 11(a) of the Rules Governing Section 2241 Cases in the United States District Courts, hereby finds that:

A Certificate of Appealability should not issue. The applicant has failed to make a substantial showing of the denial of a constitutional right.

SO ORDERED AND ADJUDGED this the 23rd day of February, 2018.

s/ HENRY T. WINGATE
UNITED STATES DISTRICT COURT JUDGE

Order Adopting Report and Recommendation
Mitchell v. Mosley
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